

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on January 17, 2001
at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Debby Barrett (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Steven Gallus (D)
Rep. Frank Smith (D)

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 18, HB 127 1/17/01
Executive Action: HJR 3; HB 18; HB 75

Chairman Somerville handed out a letter from the Governor's Budget Office regarding HB 78. **EXHIBIT(trh13a01)** He said the Department of Justice discovered later this has some erroneous information. He handed out another sheet that increased the amount that would be in the letter from the Fiscal Analyst Office with the correct number. **EXHIBIT(trh13a02)**

Hearing on HB 127

Sponsor: Rep. David Wanzenried, HD 68, Missoula

Proponents: Dave Galt, Director of Department of Transportation; Ronna Christman, Rep. MT Petroleum Marketers Assoc.; Barry Stang, MT Motor Carriers Assoc.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 4.2}

Rep. David Wanzenried, HD 68, Missoula, stated this bill was requested by the Department of Transportation through a committee called Motor Fuel Advisory Council. This committee deals with bonding for distributors and exporters of fuel from Montana. This bill establishes a bond for those people who export fuel and requires higher limits on that bond than current existing law. The second part of the bill deals with revoking that bond and license. He submitted an Amendment to the Bill.
EXHIBIT(trh13a03)

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 6.4}

Dave Galt, Director of MDT, said MDT presented a few proposals to the Motor Fuel Advisory Council. **EXHIBIT(trh13a04)**

{Tape : 1; Side : A; Approx. Time Counter : 11.8}

Ronna Christman, MPMA, said of the total membership of distributors which is about 136, 65 of those are licensed distributors. To clarify, of the 53 distributors that they are talking about being affected in this bill, almost all of those are out of state interests. The instate distributors are already operating under a general license distributor bond. She said the

big issue with bonds is not necessarily the cost, it is being able to get them. She said MPMA is a supporter of the bill.

Barry Stang, MMCA, said they support HB 127 with amendments proposed. **EXHIBIT(trh13a05)**

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 14.9}

Rep. Hedges asked **Mr. Galt**, if a retail distributor of fuel could deliver fuel from his tanks in Lenora, ND to a rancher in Dagmar, MT. and how is the tax handled when his dealership is in North Dakota? **Mr. Galt** said yes, and referred the question to **Mr. Bob Turner**, Bureau Chief of motor fuel section MDT, who said in order for a person to cross the state line they have to be a licensed distributor. **Rep. Hedges** asked **Mr. Turner** if they would have to have a bond in the State of Montana. **Mr. Turner** said that is correct.

{Tape : 1; Side : A; Approx. Time Counter : 18.6}

Rep. Balyeat said to **Mr. Turner** there is nothing in statute about \$2,000, but apparently someone was already required to have a \$25,000 bond. **Mr. Turner** said what is in statute right now is that the security required of licensed distributors is twice the monthly tax liability and the cap is \$100,000. A distributor that exports doesn't have that tax liability and the bond is a minimum of \$2,000. This bill is raises that to \$25,000. **Rep. Balyeat** asked about the reasoning for raising that from \$2,000 to \$25,000? **Mr. Turner** said one is to make sure that these people, all of those 53 out of state interests, are taxed for that. Second, collection is a hard thing to do out of state, so that's the reason to raise to \$25,000.

{Tape : 1; Side : A; Approx. Time Counter : 20.2}

Rep. Devlin asked **Mr. Galt** Is there a difference between Farmers Union (a big company) and an independent bulk gas man, and is he going to have to become an importer. **Mr. Galt** referred question to **Mr. Turner**. **Mr. Turner** said a lot of small companies are licensed distributors.

Chairman Somerville said to **Mr. Turner**, just to clarify, you said there are 53 out of state distributors that this would impact, and Ronna Christman said that there were 53 distributors, but 38 were out of state. **Mr. Turner** said there are 53 out of state, but 38 would have a minimum of a \$2,000 bond.

Closing by Sponsor:

Rep. David Wanzenried said to include the amendment, and the bill will help in collecting state tax revenue that may go uncollected or may be more difficult to collect. He thinks it is a fairness question to those people in the business of distributing fuel to know what is specifically in statute as a matter of policy.

{Tape : 1; Side : A; Approx. Time Counter : 25.3}

Hearing on HB 18

Sponsor: Rep. Roger Somerville, HD 78, Kalispell

Proponents: Jim Currie, Deputy Dir. Department of Transportation;
Jane Jelinski, MT. Assoc. of Counties;

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Rep. Roger Somerville said that between this session and last session, he sat on the Revenue and Taxation Interim Committee. At the end of the 56th Legislative Session, a speed limit was passed. There have been problems with the bill, for example, Flathead county, with commissioners and counties that set speed limits on secondary roads with no authority to do so. The highway commissioners are the people that set the speed limits that are lower than the maximums. The problem that the commissioners had was that they didn't have any procedures on how to set these speed limits. Chairman Somerville said they came up with a solution to set a temporary speed while the official speed study was being done by the highway department or contracted engineering and then would bring the information back to the commission and the commission would make a final decision on what that speed would be. The Highway Patrol felt they had difficulty enforcing the laws when a county lowered the speed limit to whatever it wanted without complying with the Montana Code Annotated. This bill actually adds a section so that a local authority may request a temporary special reduced speed zone for routes that they consider to require a lower speed. The Department of Transportation shall conduct this preliminary examination of the route and recommend a temporary speed zone to the Highway Commission. The preliminary examination can be done

in a relatively short time depending on when the Commission meets for the next time.

Proponents Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 2}

Jim Currie, Deputy Dir. MDT, said he is in support of HB 18.
EXHIBIT (trh13a06)

Jane Jelinski, MT. Assoc. of Counties, in support of HB 18. Ms. Jelinski said this clarifies the authority of local government and it would accelerate the process of at least temporarily reducing the high speeds on roads until the full blown studies can be done.

Questions from Committee Members and Responses:

Rep. Hedges asked **Rep. Somerville** in Line 11, do you mean to have temporary in there? **Rep. Somerville** said they probably have already put in a formal request for a formal speed study. What this allows them to do is a temporary speed study. A temporary speed study is one where they take the highway engineer from the district and will drive up to the area with one of the commissioners. They will take a look at the road and come back and do a recommendation to the committee, which is a temporary speed study. A permanent one is a full blown engineering study.

{Tape : 1; Side : B; Approx. Time Counter : 9.9}

Rep. Balyeat said to **Rep. Somerville** in referring to lines 15-17, page 2, there is no time limit in substituting this temporary request for the formal request process. If there is no time limit or incentive to get the formal study done, once you have the temporary one in place, what would preclude MDT from never getting around to the formal study with the temporary speed limits? **Rep. Somerville** redirected the question to **Mr. Currie**. **Mr. Currie** said this bill simply adds a relief factor, recognizing the number of requests coming, so that there are not unsafe speeds while the speed studies are done. It does take some time to get these done in the Department because of the number of requests received and the limited number of people in the State of Montana that are capable of doing this. Traffic engineers are few and far between, both in private sector and in public sector.

Rep. Balyeat said to **Mr. Currie** so there is nothing in the current law for a time limit when a formal request for a speed study is made to when the Department can complete that study?

Mr. Currie said that is correct. We have in the past had to do some things to speed that up, we do contract to have it done privately as well as having our own staff do that. We also allow local governments who want to jump over the prioritization process to contract to have them done themselves, but they have to pay for those.

{Tape : 1; Side : B; Approx. Time Counter : 14.4}

Rep. Gallik asked if MDT ever had an inquiry for a temporary special increased speed zone? **Mr. Currie** said if we ever did receive a request for an increase in speed zone, there is a statutory cap of 70 mph.

{Tape : 1; Side : B; Approx. Time Counter : 17.5}

Rep. Bookout-Reinicke asked **Mr. Currie** how many people would be in the reviewing party. **Mr. Currie** said that district traffic engineers go out and meet with one or more members of local government. **Rep. Bookout-Reinicke** asked **Mr. Currie** if in a temporary speed zone, would the highway patrol or sheriff have full legal authority to cite for exceeding this temporary speed limit, in the courts? **Mr. Currie** said there is some uncertainty as to law enforcement's ability to enforce the speed limit in these areas. By clarifying it, it does give them enforcement authority.

Rep. Bookout-Reinicke asked **Rep. Somerville** if he would be opposed to an amendment on Page 2, Line 12. **Rep. Somerville** said he would like to defer that question to Mr. Currie. **Mr. Currie** said there is no problem with the amendment and we will support it. **EXHIBIT**(trh13a07)

{Tape : 1; Side : B; Approx. Time Counter : 21.4}

Closing by Sponsor:

Rep. Somerville said this bill will ensure that the highway patrol can properly enforce those laws and those speed limits.

EXECUTIVE ACTION ON HB 75

Motion: **Rep. Bookout-Reinicke** moved that **HB 75 Do Pass.**

Discussion:

Rep. Bookout-Reinicke said she had an amendment to the bill.
EXHIBIT(trh13a08)

Rep. Balyeat said the language about a minor is already covered in the more general language changes. In the form that it was presented to us by **Rep. Clark**, it was simply clarifying the law already on the books.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Rep. Gallik said the way the original bill reads is "anyone who does not have the right to drive" and that would include "minors", so it is all inclusive in its original form.

{Tape : 2; Side : A; Approx. Time Counter : 3.1}

Rep. Waitschies said the way he understood this bill to be presented was to include "minors". If everyone is included under provisions parts 1-3, that automatically includes "minors" so I don't see any need for the language of the amendment.

Motion/Vote: **Rep. Bookout-Reinicke** moved amendment for **HB 75 Do Pass.**

Vote: Motion failed 3-13 with Bookout-Reinicke, Juneau, and Keane voting aye.

Motion/Vote: **Rep. Bookout-Reinicke** moved **HB 75 Do Pass.**

Vote: Motion carried 12-4 with Adams, Barrett, Keane, and Matthews voting no.

EXECUTIVE ACTION ON HJR 3

Motion: **Rep. Gallik** moved that **HJR 3 Do Pass.**

Discussion:

Rep. Balyeat said the language is ambiguous and he does not think it is right for legislators to ask for something so ambiguous. The Sponsor had stated, that they "urge support", meaning both moral and financial support.

Rep. Keane said this resolution creates jobs for Montana.

{Tape : 2; Side : A; Approx. Time Counter : 14.8}

Rep. Golie said he is going to support this resolution.

Rep. Gallik said there is nothing wrong with aspiration or presenting to the people of Montana, this is desireable.

Rep. Balyeat said he would like to offer an amendment: that Line 25 be amended to say that the Montana Legislature will provide non-financial support to the development of Amtrak.

{Tape : 2; Side : A; Approx. Time Counter : 19.5}

Rep. Gallik said he would speak against the amendment, this is not the time or place to determine whether our support is going to be financial or moral.

Motion/Vote: **Rep. Balyeat** moved that amendment for HJR 3 Do Pass.
Vote: Motion failed 4-12 with Adams, Balyeat, Barrett, and Devlin voting aye.

Motion/Vote: **Rep. Gallik** moved that HJR 3 Do Pass.
Vote: Motion carried 13-3 with Adams, Balyeat, and Barrett voting no.

EXECUTIVE ACTION ON HB 18

Rep. Gallik moved that HB 18 Do Pass.

Rep. Matthews opened discussion about the Amendment.

Discussion:

{Tape : 2; Side : A; Approx. Time Counter : 26}

Rep. Waitschies said he is against the amendment.

Rep. Devlin said it does not necessarily need to be the commissioner, it could be somebody appointed by the commissioner, most likely will be the road foreman.

Motion/Vote: **Rep. Bookout-Reinicke** moved that amendment for HB 18 Do Pass.
Vote: Motion carried 15-1 with Waitschies voting no.

Motion/Vote: **Rep. Gallik** moved that HB 18 Do Pass as Amended.
Vote: Motion carried 16-0.

ADJOURNMENT

Adjournment: 4:20 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT (trh13aad)